

# ARKANSAS COURT OF APPEALS

DIVISION III

No. CA08-779

OZARK HEALTH, INC.  
APPELLANT/CROSS-APPELLEE

V.

BOBBIE WORKS  
APPELLEE/CROSS-APPELLANT

**Opinion Delivered** March 4, 2009

APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION [NO. F508984]

AFFIRMED ON APPEAL AND  
CROSS-APPEAL

## JOHN MAUZY PITTMAN, Judge

Appellee Bobbie Works sustained an admittedly compensable back injury while employed as a nurse's aide by appellant Ozark Health, Inc. She filed a workers' compensation claim seeking additional medical treatment, additional temporary-total disability benefits, and attorney's fees. After a hearing, the administrative law judge found that appellee proved entitlement to payment for past and future medical treatment by Dr. Harry Starnes, but that she failed to prove entitlement to referral to a pain-management specialist, additional temporary-total disability benefits, or attorney's fees. The Commission, after a de novo review, adopted the ALJ's opinion as its own. On direct appeal, appellant Ozark Health challenges the sufficiency of the evidence to support the Commission's finding that appellee proved entitlement to medical benefits related to treatment by Dr. Starnes. On cross-appeal, appellee argues that the Commission erred in finding that she failed to prove entitlement to additional temporary-total disability benefits. We affirm in all respects.

In reviewing decisions from the Arkansas Workers' Compensation Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings and affirm if they are supported by substantial evidence, *i.e.*, evidence that a reasonable person might accept as adequate to support a conclusion. *Carman v. Haworth, Inc.*, 74 Ark. App. 55, 45 S.W.3d 408 (2001). We will not reverse the Commission's decision unless we are convinced that fair-minded persons with the same facts before them could not have reached the conclusions arrived at by the Commission. *Wal-Mart Stores, Inc. v. Sands*, 80 Ark. App. 51, 91 S.W.3d 93 (2002). Questions of weight and credibility are within the sole province of the Commission, which is not required to believe the testimony of the claimant or of any other witness but may accept and translate into findings of fact only those portions of the testimony it deems worthy of belief. *Strickland v. Primex Technologies*, 82 Ark. App. 570, 120 S.W.3d 166 (2003). Once the Commission has made its decision on issues of credibility, the appellate court is bound by that decision. *Id.*

Appellant argues that the Commission erred in finding that appellee proved entitlement to medical benefits related to treatment by Dr. Starnes, arguing that the evidence is insufficient to show that the treatment was for medical conditions arising from the compensable back injury because it is contrary to some of the testimony offered by Dr. David Arnold. However, the Commission took the conflicts in the medical evidence into account, choosing to rely on Dr. Arnold's statement that appellee's condition was the result of a soft-tissue injury consistent with the work injury that appellee described, and his recommendation that appellee return to Dr. Starnes for activity modifications and whatever medications Dr. Starnes felt it

advisable to prescribe. We do not assess the weight of the evidence on appeal, and resolution of conflicts in the medical evidence is within the sole province of the Commission. See *Strickland v. Primex Technologies, supra*. We think the evidence cited by the Commission is sufficient to support a finding that Dr. Starnes's treatment was reasonably necessary for appellee's compensable injury, and we affirm on direct appeal.

On cross-appeal, appellee argues that the Commission erred in finding that she failed to prove entitlement to additional temporary-total disability benefits. Where the Commission has denied a claim because of the claimant's failure to meet her burden of proof, the substantial evidence standard of review requires that we affirm if the Commission's opinion displays a substantial basis for the denial of relief. *Williams v. Arkansas Oak Flooring Co.*, 267 Ark. 810, 590 S.W.2d 328 (Ark. App. 1979). Here, the Commission based its denial of additional temporary-total disability benefits on its finding that, during the disputed period, appellee was off work for an unrelated heart condition rather than for her compensable injury. This finding is supported by evidence that, during the period in question, appellee was taken off work following a cardiac catheterization; by her physician's note indicating that appellee returned to him following treatment by a cardiologist and was to remain off work until the end of the disputed period; and by appellee's testimony that she was off work during this period because of pain in her leg and other complications resulting from the cardiac procedure. We cannot say that this is not a rational basis for denying temporary-total disability benefits for the period in question, and we affirm on cross-appeal.

Affirmed on appeal and cross-appeal.

HART and BROWN, JJ., agree.